



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

VEGETABLE CONTRACTOR
LICENSE APPLICATION INFORMATION

Chapter 126, Wisconsin Statutes – Chapter ATPC 101, Wisconsin Administrative Code

The Vegetable Contractor License Application is to be filled out by a vegetable contractor who contracts with a vegetable producer or a producer agent to procure processing vegetables grown in Wisconsin as required in § 126.56, Wis. Stats. When completing the application read the question carefully, since some questions pertain to fiscal year and others specify license year. Items 1, 2, and 10 on the license fee computation section of the application relate to the most recently completed fiscal year of the licensee; not the license year. Item 11 relates to the amount on the date of the application, as well as unpaid obligations due prior to and after January 31. Items 12, 13, 14, 15 and 16 relate to the license year (February 1 through January 31). Item 1 specifies “total contract obligations (paid and unpaid) for vegetables, grown in Wisconsin, from producers and producer agents, that became payable during the license holder’s most recently completed fiscal year.” Contract obligations are for all processing vegetables grown in Wisconsin, regardless of whether or not you have a written contract with the producer. Therefore, open market/spot purchases need to be included in the contract obligations. ****For item 1 on page 2 of the application, you are to provide an ESTIMATE of the total contract obligations that you will incur in your first 12 month complete fiscal year operating as a vegetable contractor.

The license application is to be completely filled out, signed by an officer, partner or member that is listed on the front of the application or an attachment to the application, and that signature must be notarized; otherwise it is not a valid license application. If any lines are left blank in the signature/notarization portion of the license application, it is not a completed license application. All license fees and surcharges must be paid before a license application is accepted as a complete and valid license application.

Section 126.56(4), Wis. Stats., discloses annual license fees and surcharges that apply for operating without a vegetable contractor license and for submitting financial statements and renewal applications late ([see fee & surcharge statement](#)). There is a required annual fund assessment that is paid into an agricultural producer security fund each year, unless you are an exempt contractor (§ 126.56(2), Wis. Stats.) or a non-participating potato buyer (§ 126.595(1), Wis. Stats.). The annual fund assessment is based on your current ratio, debt to equity ratio and having positive equity. The assessment calculation can be found in § 126.60, Wis. Stats. An assessment fee invoice will be sent when the vegetable contractor license is issued.

You are required to file security before a license is issued if you have negative equity reported on a required financial statement when first licensed.

Section 126.58, Wis. Stats., Requires the Following:

Annual Financial Statement: Vegetable contractors **are required to file an annual financial statement** with the department **before the department first licenses** the vegetable contractor under § 126.56(1), Wis. Stats., if the vegetable contractor reports more than \$500,000 in contract obligations on their vegetable contractor application.

Agriculture generates \$59 billion for Wisconsin

2811 Agriculture Drive • PO Box 8911 • Madison, WI 53708-8911 • Wisconsin.gov

An equal opportunity employer

All vegetable contractors **are required to file an annual financial statement** by the 15th day of the 4th month following the close of the vegetable contractor's fiscal year **unless one of the following applies**:

- A vegetable contractor reports no more than \$500,000 in annual contract obligations on their vegetable contractor license application.
- A vegetable contractor pays cash on delivery under all vegetable procurement contracts.
- A vegetable contractor is a producer-owned cooperative that procures vegetables only from its producer owners.
- A vegetable contractor is a processing potato buyer and has elected not to participate in the fund in accordance with § 126.595(1), Wis. Stats.

Failure to file by the 15th day of the 4th month following the close of the vegetable contractor's fiscal year will result in a \$100 license surcharge for failure to file an annual financial statement by the applicable deadline, if you are required to file a financial statement. The department may extend the filing deadline for up to 30 days, if a written request for extension is received at least 10 days before the filing deadline [§ 126.58(1)(b), Wis. Stats.]. "A person filing a financial statement under this section may not file, in lieu of that person's financial statement, the financial statement of the person's parent organization, subsidiary, predecessor, or successor." [§ 126.58(9), Wis. Stats.]. *"If a vegetable contractor has been in business for less than one year, the vegetable contractor may file an annual financial statement... consisting of a balance sheet and notes."* [§ 126.58(6)(b), Wis. Stats.].

You are not required to file an annual financial statement, if your reported vegetable contract obligations are less than \$500,000. Persons must file a reviewed or an audited financial statement, if their contract obligations are more than \$500,000 and less than or equal to \$7,500,000. They must file an audited financial statement, if annual contract obligations are more than \$7,500,000. [§ 126.58(3), Wis. Stats.]. The annual contract obligation is based on the fiscal year not the calendar year or license year.

Under § 126.58(6)(c), Wis. Stats., the vegetable contractor shall include calculations of the vegetable contractor's current ratio and debt to equity ratio in the financial statement. This may be done by a separate attachment to the financial statement. If you are required to file a financial statement, please include such calculations with a financial statement. These calculations will be used to determine the annual fund assessments required in § 126.60, Wis. Stats. The assessment will be determined for a full year as required in § 126.60(6)(c), Wis. Stats., when the financial statement is received and the license application is completed. You will then receive an invoice for that assessment.

Optional Non-participation for Potato Buyers: On December 21, 2005, AB635 was signed into law and became effective with the license year beginning February 1, 2006. This amendment to Chapter 126, Wisconsin Statutes, allows a processing potato buyer who purchases processing potatoes and no other processing vegetables from Wisconsin growers to elect not to participate in the agricultural producer security fund (fund).

*Section 126.595, Wis. Stats. requires a vegetable contractor that elects not to participate in the fund to notify the department in writing by January 31st of each year, or, for a new processing potato buyer, at the time of application for its first license that the vegetable contractor elects not to participate in the fund. **This notification should be provided by answering 'Yes', if appropriate, to both questions under line item 8 in the fee computation section on the application.*** Those processing potato buyers electing not to participate in the fund must also sign and submit to the department's offices in Madison, Wisconsin the ['Certification for Potato Processors who Elect not to Participate'](#) form. Producers selling potatoes to nonparticipating processing potato buyers will not be eligible for payment from the fund on any default claim. Those processing potato buyers electing not to participate are exempt from filing annual financial statements with our department and from contributing to the fund. A processing potato buyer that elects not to participate in the fund is required to pay the lesser of \$25 plus 8.75 cents for each \$100 in contract obligations reported under § 126.56(9)(a), Wis. Stats., or \$2,000. An additional \$25 for the nonrefundable

license processing fee is required for either method used to determine the nonparticipation fees. The license fee computation will be either the total of lines 3 through 7 on the application, or \$2,025.00, whichever is less.

Resuming participation after electing not to participate in the Fund § 126.595(2), Wis. Stats.:

A processing potato buyer that elects not to participate in the fund and either decides, or is required, to participate in the fund because the potato buyer ceases to meet the requirements in the certification form filed with the department, will be required to file security of at least 75 percent of the largest amount of unpaid contract obligations that the potato buyer had at any time during the last completed fiscal year. The department may not release the security until the potato buyer has participated in the fund for two continuous complete license years. A potato buyer that decides, or is required, to participate in the fund shall begin contributing to the fund at the beginning of its 2nd complete license year of participation, except that this requirement does not apply to a processing potato buyer that is disqualified under § 126.59(2), Wis. Stats.

A nonparticipating vegetable contractor that fails to file 'notification' not to participate in the fund by January 31st, will be required to resume participation in the fund. This would result in a requirement that the contractor file security, begin paying assessments, and may require the filing of annual financial statements.

Section C of the application relates to the "Vegetable contractor default claim waiver". This section applies if there is common ownership in the producer, or producer agent, and in the vegetable contractor of greater than 50%. A waiver requires documentation of ownership interest under § 126.70 (1) (c), Wis. Stats., and must be on file with the department or filed with the application to lower contract obligations pursuant to the waiver. Total contract obligations (reduced for producer and producer agent waived contract obligations) determine the assessment amount paid into the agriculture producer security fund. The reduced contractor obligation amount will be used to determine the 2013-2014 assessment amount. Assessment fees due prior to filing the default claim waiver with the department will not be adjusted. The reduced contract obligation amount is also used to determine the type of financial statement filed with the department. **License fees will not be reduced as a result of any related party obligations. If you meet the greater than 50% ownership in a producer or producer agent and the license holder, you may contact the department as indicated in the last paragraph for a waiver form.**

Please return the application completely filled out with the total fees and any required financial statements or security to:

Agricultural Producer Security Section
WDATCP
2811 Agriculture Drive
Madison WI 53718-6777
or
PO Box 8911
Madison WI 53708-8911

If you have any questions regarding the renewal license application, please feel free to contact Sally Sutherland at (608) 224-4966 or Darlene Davidson at (608) 224-4970. Thank you.

Wisconsin Statute Chapter 126, Subchapter VI – Vegetable Contractors

Vegetable Contractor License Fees and Surcharges ATCP 101.23 Wisconsin Administrative Code

A person or business entity applying for an annual vegetable contractor license under s. 126.56, Wis. Stats., shall pay all of the following license fees and surcharges, rather than license fees and surcharges provided in s. 126.56(4), Wis. Stats.:

1. A nonrefundable license processing fee of \$25.
2. A fee of \$25 plus 8.75 cents for each \$100 in contract obligations reported under s. 126.56(9)(a), Wis. Stats., less any fee credits for which the vegetable contractor qualifies under s. 126.56(6), Wis. Stats. This subsection does not apply to a processing potato buyer that has elected under s. 126.595(1), Wis. Stats., not to participate in the fund.
3. For a processing potato buyer that has elected under s. 126.595(1), Wis. Stats., not to participate in the fund, a fee equal to the lesser of the following amounts:
 - a. \$25 plus 8.75 cents for each \$100 in contract obligations reported under s. 126.56(9)(a), Wis. Stats.
 - b. \$2,000
4. A surcharge of \$500 if, within 365 days before submitting the license application, the applicant operated as a vegetable contractor without a license in violation of s. 126.56(1), Wis. Stats. The applicant shall also pay any license fees, license surcharges, and fund assessments that are still due for the license year in which the applicant violated s. 126.56(1), Wis. Stats.
5. A surcharge of \$100 if, within 365 days before submitting the license application, the applicant failed to file an annual financial statement required under s. 126.58(1)(b), Wis. Stats., by the applicable deadline.
6. A surcharge of \$100 if a renewal applicant fails to renew a license by the license expiration date of January 31.

Vegetable Contractors; Security

Under s. 126.55, Wis. Stats., “Deferred payment contract” means a vegetable procurement contract in which the vegetable producer or a producer agent agrees to accept payment after January 31 for processing vegetables harvested during the previous calendar year.

Before a vegetable contractor offers a deferred payment contract the vegetable contractor shall put the deferred payment contract to a vote of vegetable producers as provided in s. 126.63(5), Wis. Stats.

You may visit the following websites to see the applicable statutes & rules:

Chapter 126, Wis. Stats. - <http://www.legis.wisconsin.gov/statutes/statutes/126.pdf>

Chapter ATCP 101, Wis. Admin. Code - <http://www.legis.wisconsin.gov/rsb/code/atcp/atcp101.pdf>

Producer Security Fund under Dept. of Agriculture, Trade and Consumer Protection –
http://datcp.wisconsin.gov/Business/Agricultural_Producer_Security/index.aspx